

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES EDKINS,

Plaintiff,

No. 15-10615

v.

District Judge Matthew F. Leitman
Magistrate Judge R. Steven Whalen

UNITED STATES OF AMERICA,

Defendant.

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REPORT AND RECOMMENDATION

On February 18, 2015, Plaintiff Charles Edkins (“Plaintiff”), formerly housed at Federal Correctional Institution (“FCI”) Milan in the custody of Bureau of Prisons, filed a *pro se* civil complaint under the Federal Tort Claims Act, 28 U.S.C. § 1346(b). Currently before the Court is Plaintiff and Defendant Matthew Scott Dubois, D.D.S.’s (Dr. Dubois’’) September 4, 2015 joint motion for the dismissal of Dr. Dubois [Doc. #21], which has been referred for a Report and Recommendation pursuant to 28 U.S.C. §636(b)(1)(B).

In the joint motion, parties state that in fact, Dr. Dubois “is not the correct defendant” since it was another individual, Defendant *Scott Kevin* Dubois, D.D.S. who was working at FCI Milan at the time of the events in question. Both Plaintiff and Dr. Dubois request that the Court “completely remove” Dr. Matthew Scott Dubois from this case. I agree with both parties that this Dr. Scott, who coincidentally has a name similar to the intended Defendant,

but has no connection to this case, should be dismissed.

CONCLUSION

I recommend that the joint motion to dismiss [Doc. #21] be GRANTED, dismissing all claims against Dr. Matthew Scott Dubois WITH PREJUDICE.

Any objections to this Report and Recommendation must be filed within 14 days of service of a copy hereof as provided for in 28 U.S.C. §636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); *Howard v. Secretary of HHS*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Secretary of HHS*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Within 14 days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than 20 pages in length unless by motion and order such page limit is extended by the court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

/s/R. Steven Whalen

R. STEVEN WHALEN

UNITED STATES MAGISTRATE JUDGE

Dated: September 30, 2015

Certificate of Service

I certify that a copy of this document was served upon parties of record on September 30, 2015 via electronic or postal mail.

/s/C. Ciesla

CASE MANAGER